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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 4 February 2004 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Grand Duchy of Luxembourg to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and has the honour to transmit the report of Luxembourg to the Security Council pursuant to resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 4 February 2004 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chairman of the Committee

Report to the Security Council Committee established pursuant to resolution 1267 (1999), in implementation of paragraphs 6 and 12 of resolution 1455 (2003)

As a member of the European Union, the Grand Duchy of Luxembourg fully associates itself with the actions undertaken under the Treaty on the European Union and the Treaty establishing the European Community. For information on those actions, it would therefore be useful to refer to the reports the European Union has submitted to the Counter-Terrorism Committee on behalf of its 15 members.

I. Introduction

To date, the Luxembourg authorities have no know ledge of activities of Usama bin Laden, Al-Qaida, the Taliban or their associates in Luxembourg.

II. Consolidated list

With regard to the incorporation of the 1267 Committee's list within the legal system and administrative structure of Luxembourg, see the annex to the letter dated 13 February 2003 addressed to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) by the Permanent Representative of Luxembourg to the United Nations (S/AC.37/2003/4).

The Luxembourg authorities have not yet encountered any problems with implementation with regard to the names and identifying information included in the list.

The Luxembourg Government has not identified any listed individuals or entities inside its territory.

No listed individuals or entities have brought lawsuits or engaged in legal proceedings against the Luxembourg authorities because of their inclusion in the list.

Luxembourg has not identified any of the listed individuals as a national or resident of the Grand Duchy of Luxembourg.

As for measures taken to prevent entities and individuals from recruiting or supporting Al-Qaida members, see the second supplementary report of Luxembourg pursuant to Security Council resolution 1373 (2001) dated 8 October 2003 from the Permanent Representative of Luxembourg to the United Nations to the Chairman of the Security Council Committee (annex to document S/2003/1014). Criminal prosecution and suppression of the recruitment of terrorists are made possible under Luxembourg law by two specific provisions, which are described in detail in this report.

III. Financial and economic assets freeze

The domestic legal basis to implement the asset freeze required by Security Council resolutions 1267 (1999) and 1390 (2002) is:

- the Act of 12 August 2003 on the suppression of terrorism and its financing and the adoption of the International Convention for the Suppression of the Financing of Terrorism, opened for signature in New York on 10 January 2000;

- articles 135-1 to 135-8 of the Penal Code, as introduced by this Act;

- article 506-1 of the Penal Code, as amended by the Act;

- article 40 of the amended Act of 5 April 1993 on the financial sector.

There are no particular legal impediments in this area.

With regard to structures and mechanisms to identify and investigate financial networks related to Usama bin Laden, Al-Qaida or the Taliban or those who provide support to them or individuals, groups, undertakings and entities associated with them within the jurisdiction of Luxembourg, it should be pointed out that the Commission on the Supervision of the Financial Sector (CSSF) has informed by circular the professionals under its supervision of the publication in the Official Journal of the European Union of Community regulations instituting certain specific restrictions on individuals and entities linked to Usama bin Laden, the Al-Qaida network and the Taliban. According to the relevant CSSF circulars, the CSSF acts as intermediary between the professionals under its supervision and the competent authorities named in the respective regulations which are responsible for receiving information on the aforementioned freezing of assets, the Ministry of Finance and the Ministry of Foreign Affairs respectively. For purposes of evaluation, the CSSF informs these authorities of the results of the research conducted by professionals under its supervision.

The competent authorities, after their evaluation, must then report the relevant information to the European Commission, in accordance with the provisions of the specific regulations.

Since the financing of terrorism is currently a primary offence of money-laundering under article 506-1 of the Penal Code, any measures taken in this area benefit the fight against terrorism and its financing.

For more information, see the supplementary report dated 20 August 2002 submitted in accordance with paragraph 6 of resolution 1373 (2001), in particular the discussion in paragraph 1 (c) and (d), as well as the report of the Financial Intelligence Unit on its activities for 2001 and 2002 (CRF/FIU-LUX) submitted in March 2003.

Monitoring of the observance of the steps that banks and other financial institutions must take to locate and identify assets attributable to the aforementioned individuals and entities is provided by the CSSF as part of its mission to exercise due diligence with respect to credit establishments and other professionals in the financial sector. On this subject, see article 39 of the Act of 5 April 1993 on the financial sector, as amended, as well as the CSSF circulars addressed to banks and other professionals in the financial sector.

The professionals under the supervision of CSSF are free to choose the steps to be taken to locate and identify the assets attributable to Usama bin Laden or members of Al-Qaida or the Taliban or other associated entities or individuals.

The "due diligence" and "know your customer" rules are those generally applied to the issue of money-laundering and are based mainly on Community law

and the recommendations of the Financial Action Task Force on money-laundering. CSSF has issued circulars on this topic.

For information on the legal basis for monitoring of transfers of funds or assets to listed individuals and entities, please also see the second supplementary report of Luxembourg, paragraphs 1.3 and 1.4, which describe the legal framework in force in Luxembourg to regulate alternative money transfer systems and freezing of funds.

In general, as indicated in the amended Act of 5 April 1993 on the financial sector, CSSF informs credit establishments and other financial sector professionals, by means of circulars, of the restrictions imposed under Community regulations. These regulations are directly applicable in Luxembourg following their publication in the Official Journal of the European Union.

The professionals under CSSF supervision are free to choose the form in which they will report on suspicious transactions. CSSF transmits the information contained in those reports for evaluation by the competent authorities, the Ministry of Finance and the Ministry of Foreign Affairs.

Other professionals in the financial sector are also under the obligation to report suspicious transactions as defined in the amended Act on the financial sector of 5 April 1993, involving the "other professionals in the financial sector" covered by chapters 2 and 3 of the amended Act of 5 April 1993.

Alternate systems of money transfer such as "hawala" are covered by article 28-6 of the amended Act of 5 April 1993 concerning professionals providing money transfer services, and therefore, these professionals are subject to the same obligations in the area of combating money-laundering as credit establishments and other professionals in the financial sector supervised by CSSF.

IV. Travel ban

An administrative practice has been instituted whereby a "blacklist" is consulted each time a visa is requested. It should be noted that all visa requests are also transmitted to the State security agency, so that they are double-checked.

Problems could arise at border control posts because the information provided is often inadequate. The passport number or date of birth is often missing, which could, in those cases, pose difficulties in the precise identification of the individuals concerned.

Any changes in the list are automatically sent to the competent authorities. Our visa services have not identified any visa requests from individuals whose names are on the list. The Luxembourg customs authorities have not arrested any of the listed individuals at any entry point or along the Luxembourg border.

V. Arms embargo

On this matter, see the annex to the letter dated 13 February 2003 from the Permanent Representative of Luxembourg to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) (S/AC.37/2003/4), in addition to the explanations provided in the report of Luxembourg submitted in implementation of paragraph 6 of resolution 1373 (2001).

The export of weapons and ammunition, including hunting and sport shooting rifles and accessories, is subject to prior authorization (licensing) for all destinations (Grand-Ducal regulation of 31 October 1995).

The export of dual-use products that could be used in the manufacture of weapons or ammunition is also subject to licensing, and provision of technical assistance is monitored.

Any violation of the embargo on shipment of weapons imposed against Usama bin Laden, members of the Al-Qaida organization or the Taliban and associated individuals, groups, undertakings or entities is punishable by a maximum prison sentence of one year and/or a fine equivalent to the value of the merchandise; its seizure may be ordered.

Licences issued for items on the list of weapons and ammunition are always issued to individuals. An end use/user certificate must be submitted with the request. The Luxembourg authorities are thus able to prevent any of the prohibited goods from being supplied to individuals, groups, undertakings or entities on the Committee's list.

Luxembourg has no arms industry, and therefore no domestic production of weapons or ammunition.